

**TENNESSEE REAL ESTATE COMMISSION  
MINUTES  
June 6, 2007**

The Tennessee Real Estate Commission convened on June 6, 2007 at 9:00 a.m., in Room 160, Davy Crockett Tower, 500 James Robertson Parkway, Nashville, Tennessee. The following **Commission Members were present: Chairman Charles Haynes, Vice Chairman William (Bear) Stephenson, Commissioner Gary Cunningham, Commissioner Adren Greene, Commissioner Grover Collins, Commissioner Carol Tate, Commissioner Wendell Alexander, and Commissioner David Flitcroft. Commissioner Isaac Northern was absent. Others present: Donna Hancock, Interim Executive Director, Ryan Bane, staff attorney, and Kelly McDermott, Administrative Secretary.**

The first order of business was the adoption of the agenda for the June 2007 Commission meeting. Chairman Haynes wished to add to the agenda a discussion of procedures for the Executive Director interviews being held the next day. **Commissioner Alexander made a motion to adopt the agenda as amended; seconded by Commissioner Greene; Motion Carried.**

The next order of business was the approval of the minutes from the May 2007 meeting (Exhibit 2). **Commissioner Alexander made a motion to approve the May 2007 minutes; seconded by Commissioner Greene; Motion Carried.**

**Informal Applicant Conferences**

**Joe Ben Arney, applicant** – Mr. Arney appeared before the Commission with his Principal Broker Dave Patton to request approval for an affiliate broker license. Mr. Arney disclosed to the Commission a complaint by the Tennessee Contactor's Board. Ms. Hancock advised the Commission that Mr. Arney has two open complaints with the Contractor's board. **Commissioner Collins made a motion to deny until Mr. Arney has information regarding his complaints with the Contractor's Board; seconded by Commissioner Cunningham; Motion Carried.**

**Paula Gonzalez, applicant** – Ms. Gonzalez appeared before the Commission with her Principal Broker Patricia Lawhorn to request approval for an affiliate broker license. Ms. Gonzalez disclosed to the Commission a conviction of Forgery in 2000 and a conviction of Burglary of a Coin Operated Machine in 2002. **Commissioner Flitcroft made a motion to approve; seconded by Commissioner Tate; Motion Carried.**

**Brian E. Wooden, applicant** – Mr. Wooden appeared before the Commission with his Principal Broker Henry Puckett to request approval for a Timeshare Salesperson license. Mr. Wooden disclosed to the Commission a conviction of DUI in 1997 and a conviction of Reckless Aggravated Assault in 1998. **Commissioner Cunningham made a motion to approve; seconded by Commissioner Collins; Motion Carried.**

**Tiffany M. Henley, applicant** – Ms. Henley did not appear; rescheduled for the July 2007 Commission meeting.

**Cathy Hester, applicant** – Ms. Hester appeared before the Commission with her Principal Broker Liz Johnson to request approval for an affiliate broker license. Ms. Hester disclosed to the Commission two convictions of Passing Worthless Checks in 1988 and a charge of Theft Under \$1000.00 in 2002. **Commissioner Collins made a motion to approve; seconded by Commissioner Stephenson; Motion Carried.**

**Troy Moulton, applicant** – Mr. Moulton appeared before the Commission with his Principal Broker Henry Puckett to request approval for a Timeshare Salesperson license. Mr. Moulton disclosed to the Commission a conviction of Domestic Assault in 1997, a conviction of Domestic Assault in 1998, a conviction of Public Intoxication and Criminal Trespassing in 1999, and two dismissals for Possession of a Schedule II Drugs and Possession of Drug Paraphernalia. **Commissioner Stephenson made a motion to approve; seconded by Commissioner Tate; Motion Carried.**

### **Licensee/Applicant Requests**

**James Lansford, licensee, 263950** – Mr. Lansford has requested that the Commission consider his request for reinstatement of his expired license due to illness. **Commissioner Alexander made a motion to deny; seconded by Commissioner Cunningham; Motion Carried.**

**Clair James, licensee, 224981** – Ms. James appeared before the Commission to request reinstatement of her broker license. **Commissioner Cunningham made a motion to deny but to allow Ms. James to retest for the broker if she meets the educational requirements to qualify to test; seconded by Commissioner Alexander; Motion Carried.**

**Reece White, licensee, 299233** – Mr. White has requested that the Commission consider his request for a waiver of the required 8 hours continuing education at a Commission meeting as a provision for reinstatement of his license. **Commissioner Alexander made a motion to deny; seconded by Commissioner Cunningham; Motion Carried.**

**Carla Colquitt, licensee, 296972** – Ms. Colquitt has requested that the Commission consider her request for a waiver of the required 8 hours continuing education at a Commission meeting as a provision for reinstatement of her license. **Commissioner Alexander made a motion to deny; seconded by Commissioner Cunningham; Motion Carried.**

**Bill McWaters, licensee, 218148** – Mr. McWaters has requested that the Commission consider his request for a waiver of the required 8 hours continuing education at a Commission meeting as a provision for reinstatement of his license. **Commissioner Collins made a motion to deny; seconded by Commissioner Cunningham; Motion Carried.**

**Larry Wright, licensee, 15735** – Mr. Wright has requested that the Commission consider his request for a waiver of the required 8 hours continuing education at a Commission meeting as a provision for reinstatement of his license. **Commissioner**

**Collins made a motion to deny; seconded by Commissioner Cunningham; Motion Carried.**

**Moneique Mitchell, applicant, 307534** – Ms. Mitchell requested a waiver of the 50-mile rule. **Commissioner Collins made a motion to approve; seconded by Commissioner Cunningham; Motion Carried.**

**Walter B. James, 284081** – Mr. James requested a waiver of the 50-mile rule. **Commissioner Collins made a motion to approve; seconded by Commissioner Alexander; Motion Carried.**

**Kathy Bethrum, applicant, 312480** – Ms. Bethrum requested a waiver of the 50-mile rule. **Commissioner Collins made a motion to approve; seconded by Commissioner Alexander; Motion Carried.**

**Marvine Johnston Goss, applicant, 312518** – Ms. Goss requested a waiver of the 50-mile rule. **Commissioner Collins made a motion to approve; seconded by Commissioner Alexander; Motion Carried.**

There was a brief discussion of the procedure to be used the following day for the interviews for Executive Director. **Commissioner Collins made a motion that the applicant selected by the Commission must provide a FBI background check and employment will be contingent on the results; seconded by Commissioner Alexander; Motion Carried.**

#### **Education Report: Dr. Kathy Riggs, Education Director**

Dr. Riggs presented courses for Commission evaluation (**Exhibit 3**). There were three courses up for discussion: “Win Real Estate Business with Winning Presentations”, “Feng Shui for Real Estate Agents” and “Home Inspection Reports”. Dr. Riggs stated that the “Home Inspection Reports” course is not a pre-licensing course for a Home Inspector license. Dr. Riggs presented the Commission with information on the content of the the course “ Feng Shui for Real Estate Agents”. (**Exhibit 4**). **Commissioner Collins made a motion to approve all the courses except the “Win Real Estate Business with Winning Presentations” course; seconded by Commissioner Stephenson; Motion Carried.**

Dr. Riggs presented instructors for review (**Exhibit 5**).

- **Penny Simmons** – Ms. Simmons does not have the required 5 years as a Broker to teach pre-licensing courses, **Commissioner Collins made a motion to deny; seconded by Commissioner Alexander; Motion Carried.**

Chairman Haynes inquired if Dr. Riggs was still updating the Pass/Fail Ratios for real estate schools. Dr. Riggs stated that she was waiting for the end of the second quarter to present the next quarterly statistics. The next report will be made in July 2007.

Commissioner Collins requested Dr. Riggs make an inquiry into a course taught at TREES where class was dismissed after an hour of attendance each day.

Commissioner Collins will provide Dr. Riggs with the pertinent information so that she may contact the school on the Commission's behalf.

There was a brief discussion about the interviews for Executive Director being held the next day. Each Commissioner made a list of questions and selected two questions each that they would like to ask during the interview process.

Ms. Hancock shared with the Commission the plaques created in recognition of Barney Thompson, recently deceased Executive Vice President and CEO of the Knoxville Area Association of Realtors. Chairman Haynes suggested the East Tennessee Commissioners join together and present the award to the Knoxville Area Association of Realtors. Commissioner Stephenson made the suggestion that the plaque be presented at the next Association meeting. Chairman Haynes would like for photographs to be taken and a news article be written for the TREC newsletter.

#### **Legal Report, Ryan Bane, Staff Attorney (Exhibit 6)**

- **2007052511 & 2006022382 – Commissioner Collins made a motion to dismiss; seconded by Commissioner Greene; Motion Carried.**
- **2006025911 – Commissioner Flitcroft made a motion to dismiss; seconded by Commissioner Stephenson; Motion Carried.**
- **2006017941 – Commissioner Collins made a motion to dismiss; seconded by Commissioner Stephenson; Motion Carried.**
- **2006017301 – Commissioner Tate made a motion to defer the discussion until the end of the legal report so staff can gather additional pertinent information; seconded by Commissioner Stephenson; Motion Carried.**
- **2006017512 & 2006017511 – Commissioner Collins made a motion to dismiss; seconded by Commissioner Alexander; Motion Carried.**
- **2006037621 – Commissioner Stephenson made a motion to dismiss; seconded by Commissioner Collins; Motion Carried.**
- **2006018731 – Commissioner Collins made a motion to dismiss; seconded by Commissioner Alexander; Motion Carried.**

Ryan Bane acknowledged that he had a duplicate complaint number in the legal report and stated that he will readdress the error at a later time.

- **2006037791 – Commissioner Cunningham made a motion to dismiss; seconded by Commissioner Stephenson; Motion Carried.**
- **2007049532 & 2007049531 – Commissioner Cunningham made a motion to dismiss; seconded by Commissioner Tate; Motion Carried.**
- **2006037662 & 2006037661 – Commissioner Alexander made a motion to defer to July meeting and that an auditor visit the firm to perform a compliance audit of the contracts from this transaction; seconded by Commissioner Flitcroft; Motion Carried.**
- **2006049411 – Commissioner Cunningham made a motion to dismiss; seconded by Commissioner Stephenson; Motion Carried.**
- **2006041071 – Commissioner Collins made a motion to accept staff's recommendation to hand deliver a Consent Order with a civil penalty of one**

thousand dollars (\$1000.00) for unlicensed conduct; seconded by Commissioner Stephenson; Motion Carried.

- **2007051161** – Commissioner Alexander made a motion to defer to the July meeting and send an auditor to the firm to perform a compliance audit and determine the Principal Broker's role in the transaction; seconded by Commissioner Cunningham; Motion Carried.
- **2007050661** – Commissioner Cunningham made a motion to dismiss; seconded by Commissioner Alexander; Motion Carried.
- **2007050911** – Commissioner Collins made a motion to dismiss; seconded by Commissioner Cunningham; Motion Carried.
- **2006046341** – Commissioner Alexander made a motion to defer to the July meeting and send an auditor to the firm to perform a compliance audit and determine the Principal Broker's role in this case and secure a copy of the file for this transaction; seconded by Commissioner Tate; Motion Carried.
- **2007051071** – Commissioner Stephenson made a motion to accept staff's recommendation to send a Consent Order with a civil penalty of one thousand dollars (\$1000.00) for unlicensed conduct; seconded by Commissioner Flitcroft; Motion Carried.
- **2006028911** - Chairman Haynes suggested that Commissioner Stephenson be assigned to hold a conference with the unlicensed vacation lodging service. No motion was made.
- **2006017301 (revisited)** – Commissioner Collins made a motion for revocation of the respondent's license; no second; Motion Failed. Commissioner Stephenson made a motion to amend Commissioner Collins motion to include a one year suspension and a \$10,000 fine or respondent may appear for a formal hearing; Chairman Haynes called for a vote; Vote: 4 yes, 4 no; Motion Failed for lack of a majority; Commissioner Greene made a motion to revert respondent's license to an affiliate broker license with a \$5000.00 Consent Order; no second; Motion Failed; Commissioner Alexander made a motion for revocation and a \$5000.00 fine, respondent may retest/reapply and appear before the Commission for approval for an affiliate broker license; seconded by Commissioner Stephenson; Motion Carried.

Commissioner Greene made a motion to excuse the licensees present for continuing education for reinstatement from attending the meeting the following day since interviews for the Executive Director position are being held ;seconded by Commissioner Alexander; Motion Carried.

#### **Follow up Report on Deferred Complaints**

- **2005044541** – Commissioner Alexander made a recommendation to accept the proposed Consent Order with a civil penalty of \$2000.00 which was supplied by respondent's attorney and close the file. **Commissioner Stephenson made a motion to accept Commissioner Alexander's recommendation; seconded by Commissioner Collins; Commissioner Alexander and Commissioner Cunningham abstained; Motion Carried.**
- **2007054472 & 200705471** – Commissioner Alexander made a motion to dismiss; seconded by Commissioner Collins; Motion Carried.

- **2007047732 & 2007047731 – Commissioner Alexander made a motion that a Consent Order for revocation with a civil penalty of \$10,000 be assessed for both the Principal Broker and the Affiliate; if licensees do not consent, proceed to formal hearing; seconded by Commissioner Cunningham; Motion Carried.**
- **2007047721 – Commissioner Alexander made a motion that a Consent Order for \$2500.00 be assessed to the Affiliate; if licensee does not consent, proceed to formal hearing; Commissioner Alexander included in the motion that a complaint should be opened against the Principal Broker regarding this transaction; seconded by Commissioner Cunningham; Motion Carried.**
- **2007051311 – Commissioner Greene made a motion to dismiss; seconded by Commissioner Alexander; Motion Carried.**

The next order of business was the adoption of the Policy on Reinstatement, Policy # 07-001 (**Exhibit 7**). **Commissioner Alexander made a motion that the adoption of the policy be deferred to the July 2007 meeting to provide the Commission time for policy review; seconded by Commissioner Tate; Motion Carried.**

#### **Executive Director's Report- Donna Hancock, Interim Executive Director**

Ms. Hancock presented the following information to the Commission for review:

- **Complaint Statistics Report (Exhibit 8)** – TREC has a total of 399 open complaints. There are 46 new complaints since the May meeting. There are 304 complaints in the legal department and 95 open complaints in the TREC office awaiting response. The total number of closed complaints for the current Fiscal Year is 269.
- **Longevity Award Program** – There was a brief discussion of the award preparation and banquet. Recipients may bring their spouses to the banquet. However, if they wish to bring additional guests the recipient may pay the cost for those wishing to attend. The longevity award banquet will be held in conjunction with the East Tennessee Commission meeting on October 3-4, 2007 in Knoxville. Chairman Haynes suggested a Knox county courthouse or municipal building be used for the Commission meeting. **Commissioner Flitcroft made a motion to hold the October 2007 Commission meeting in East Tennessee; seconded by Commissioner Alexander; Motion Carried.** Commissioner Stephenson will give a report at the July 2007 meeting regarding possible locations for the banquet and venues at which the Commission may hold the October meeting
- **TREC Manuals (Exhibit 9)** – deferred to the following day, June 7.
- **Real Estate Education and Recovery Fund Audit (Exhibit 10)** – Ms. Hancock reviewed the audit with the Commission.
- **Mutual Recognition Agreement with Florida (Exhibit 11)** – Ms. Hancock presented a request from Thomas O'Bryant, Jr., Director of the Florida Division of Real Estate. In its meeting of April 17, 2007, the Florida Real Estate Commission voted to renegotiate any Mutual Recognition Agreement over five years old between the State of Florida, Division of Real Estate/Florida Real Estate Commission and any state it recognizes for mutual recognition for

licensing of real estate professionals. Mr. O'Bryant has requested that the Commission review the mutual recognition agreement and input Tennessee's information as a starting point for negotiations. The agreement should be returned to FREC. Chairman Haynes suggested that the Commission should make efforts to audit all of TREC's Mutual Agreements for Recognition. **Commissioner Collins made a motion to have staff attorney, Ryan Bane, review the agreement for statutory requirements and once completed, Ms. Hancock will report back to the Commission; seconded by Commissioner Stephenson; Motion Carried.**

### **Comments from Attendees**

Chairman Haynes called for comments from the attendees.

Licensees who attended the Commission meeting in order to obtain continuing education credits appeared before the Commission and gave statements regarding what they had learned from the meeting.

### **Applicant Conferences (revisited)**

**Joe Ben Arney, applicant**, appeared before the Commission again to follow up on the Commission's request from earlier in the day's proceedings for more information from the Contractor's Board. Chairman Haynes suggested that Ryan Bane review the supplied documents present to the Commission. Mr. Arney signed a Consent Order of revocation for both open complaints with the Contractor's Board for revocation. Chairman Haynes suggested to Mr. Arney that the Commission would be more favorable to approve his licensure if arrangements could be made to fulfill his obligation to the complainants. Ryan Bane explained that the Commission cannot legally require Mr. Arney to finish the construction of the complainant's home. Mr. Arney stated that the complainant has not filed suit against him in this case. Chairman Haynes suggested that Mr. Arney attempt to find another contractor to complete complainant's home. **Commissioner Flitcroft made a motion to defer the matter to the July meeting; seconded by Commissioner Alexander; Motion Carried.**

Chairman Haynes recognized the service of departing Commissioner Adren Greene. Commissioner Greene made comments regarding his ten years of service as a Commissioner for TREC.

The Tennessee Real Estate Commission recessed at 4:15 p.m.

## TENNESSEE REAL ESTATE COMMISSION

### MINUTES

June 7, 2007

The Tennessee Real Estate Commission reconvened on June 7, 2007 at 9:00 a.m., in Room 160, Davy Crockett Tower, 500 James Robertson Parkway, Nashville, Tennessee. The following Commission Members were present: Chairman Charles Haynes, Vice Chairman William (Bear) Stephenson, Commissioner Gary Cunningham, Commissioner Grover Collins, Commissioner Carol Tate, Commissioner Wendell Alexander, and Commissioner David Flitcroft. Commissioner Isaac Northern and Commissioner Adren Greene were absent. Others present: Ryan Bane, staff attorney and Kelly McDermott, Administrative Secretary. Interim Executive Director Donna Hancock joined the meeting at 3:15 p.m.

### Interviews for Executive Director

The following applicants for the Executive Director position were interviewed by the Commission in the following order:

- Ira Frye
- Eve Maxwell
- Ronald "Ronnie" Moore
- Richard Kidney
- Edward Childers
- Roy Brunson
- Sandra Gregory
- Jim Gibbs
- Tice Feldman
- Ruth Fennell

After deliberation, the top three applicants were selected. The three applicants selected by the Commission are Eve Maxwell, Ronald "Ronnie" Moore, and Ruth Fennell. The three applicants will meet with the Assistant Commissioner of the Department of Commerce and Insurance Meredith Sullivan and will be interviewed again by the Commission at the July 2007 meeting.

### Commissioner Reports

Commissioner Cunningham reported on the distribution of the 2006 TREC manual. To mail the manual to all 42,044 licensees, excluding retired licensees, the cost would be \$265,718.00. To mail to the 5,106 licensed firms, the cost would be \$32,934.

**Commissioner Collins made a motion to mail to the firms only plus new licensees; seconded by Commissioner Tate; Motion Carried.** There was a discussion of other options for distribution. To mail to all 36,938 licensees, excluding retired licensees and licensed firms, the cost would be approximately \$342,000.00. **Commissioner Alexander made an amendment to Commissioner Collins previous motion to send the manuals to the firms only to include that TREC will send all 36,938 licensees, excluding retired licensees and firms, a manual to the firm address; seconded by Commissioner Stephenson; Motion Carried.** Commissioner



Cunningham made a suggestion that the manual be sent with the license to new licensees. **Commissioner Tate made a motion that Ms. Hancock report back to the Commission in July regarding the feasibility of this option; seconded by Commissioner Stephenson; Motion Carried.** Chairman Haynes made a suggestion that the order for the first 25,000 should be placed before July 1, 2007 under this fiscal year and the additional 36,938 should be ordered after July 1, 2007 therefore funded under the next fiscal year. Scheduling options must be investigated with Lexis Nexis. There was a discussion regarding whether the approved rule changes from the Rule Making Hearing at the May 2007 Commission meeting are included in the 2006 manual. Ms. Hancock and Mr. Ryan Bane, staff attorney, confirmed that the new rules are not included in the 2006 manual because they are still under review at the Attorney General's office. Chairman Haynes suggested that TREC should not send out any manuals until the rule changes go into effect and are updated in the manual. Lexis Nexis should be contacted about specific printing dates for the new manuals with updated rule changes.

Commissioner Stephenson recognized the efforts of Chairman Haynes and Commissioner Cunningham for their service in narrowing down the field of applicants for Executive Director to the top ten applicants to be interviewed.

Chairman Haynes adjourned the Commission Meeting June 7, 2007 at 4 p.m.